

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

CA NO. 05-10696RGS

**ARTHUR AUSTIN,  
Plaintiff,**

v.

**ESSEX COUNTY CORRECTIONAL FACILITY,  
FRANK COUSINS, MICHAEL MARKS, ELAINE  
BUSHWAY, BRIAN LAVOIE, THOMAS  
FRANCESCONI, JASON COPP, ROBERT  
KOSTAN AND JOSEPH GOLDSTEIN,  
Defendants.**

**ANSWER OF CO-DEFENDANTS SHERIFF COUSINS AND MICHAEL MARKS  
TO CROSSCLAIMS OF DEFENDANTS LAVOIE, FRANCESCONI,  
COPP, KOSTAN AND GOLDSTEIN**

**COUNT I - INDEMNIFICATION**

10. To the extent that paragraph 10 of Count I of the defendants Lavoie, Francesconi, Copp, Kostan and Goldstein's crossclaim makes allegations of civil rights violations and state torts against co-defendants Cousins and Marks, Cousins and Marks hereby deny the same. Co-defendant Cousins admits that this principle place of business is at the Essex County House of Correction, 20 Manning Avenue, Middleton, MA 01949 and co-defendant Marks admits that he resides at 24 Cumberland Road, Lynn, MA 01904.
11. Co-defendants Cousins and Marks deny the allegations contained in paragraph 11.
12. Co-defendants Cousins and Marks deny the allegations contained in paragraph 12.
13. Co-defendants Cousins and Marks deny the allegations contained in paragraph 13.

**COUNT II - CONTRIBUTION**

13.(sic) Co-defendants Cousins and Marks reassert their responses to defendants Lavoie, Francesconi, Copp, Kostan and Goldstein's paragraphs 10 through 13 of their crossclaim as if fully incorporated herein.

14. Co-defendants Cousins and Marks deny the allegations contained in paragraph 14.

15. Co-defendants Cousins and Marks deny the allegations contained in paragraph 15.

**AFFIRMATIVE DEFENSES**

**First**

The defendants Lavoie, Francesconi, Copp, Kostan and Goldstein's have failed to state a claim upon which relief can be granted.

**Second**

The co-defendants Cousins and Marks are qualifiedly immune from liability to any of the defendants crossclaims.

**Third**

The defendants have waived liability against co-defendants Cousins and Marks.

**Fourth**

The defendants have released co-defendants Cousins and Marks from liability.

Defendants, Cousins and Marks  
By their Attorney,

/s/ Stephen C. Pfaff  
Douglas I. Louison BBO# 545191  
Stephen C. Pfaff BBO#553057  
MERRICK, LOUISON & COSTELLO  
67 Batterymarch Street  
Boston, MA 02110  
(617) 439-0305

**CERTIFICATE OF SERVICE**

I, Stephen C. Pfaff, hereby certify that on the 25<sup>th</sup> day of May, 2005, I served the following electronic filing and/or by causing a copy to be mailed, postage prepaid, directed to **Patrick W. Morgan, Esquire**, RIFKIN LAW OFFICES, 60 Federal Street, Salem, MA 01970 and **Howard B. Lenow, Esquire**, Lenow & McCarthy, 13 Pelham Island Road, Wayland, MA 01778.

/s/ Stephen C. Pfaff  
Stephen C. Pfaff